

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ONOFRIO POSITANO,

Plaintiff,

v.

GEISINGER-GMC,

Defendant.

NO. 3:18-CV-0190

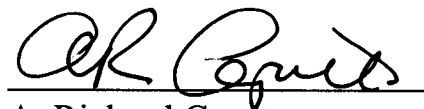
(JUDGE CAPUTO)

(MAGISTRATE JUDGE CARLSON)

**ORDER**

NOW, this 12<sup>th</sup> day of April, 2019, upon review of the Report and Recommendation of Magistrate Judge Martin C. Carlson (Doc. 37) for plain error or manifest injustice, **IT IS HEREBY ORDERED** that:

- (1) The Report and Recommendation (Doc. 24) is **ADOPTED in part.**<sup>1</sup>
- (2) The Motion to Dismiss (Doc. 33) pursuant to Federal Rule of Civil Procedure 12(b)(1) is **GRANTED**.
- (3) Plaintiff's claims are **DISMISSED without prejudice** for lack of jurisdiction.
- (4) The Clerk of Court is directed to mark the case as **CLOSED**.



A. Richard Caputo  
United States District Judge

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<sup>1</sup> Plaintiff has indicated that he never received a copy of Defendant's motion to dismiss. (*See* Doc. 38, *generally*). Thus, I will not deem the motion unopposed. Instead, for reasons explained by Magistrate Judge Carlson, subject matter jurisdiction does not exist over Plaintiff's claims.